DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-12 and 16-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant failed to teach the illumination source not being constrained by an electrical cord. The applicant further failed to disclose the visor covering a portion of the helmet regardless of visor portion as taught in claim 4.

Claims 1-12 and 16-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The applicant has claimed that the illumination source not being

connected to or constrained by an electric cord. The applicant fails to teach how the light is laminated as wires are typically required in the lighting of a light source from a power source. .

Claim Objections

Claim 4 is objected to because of the following informalities: The applicant states "...visor cover part of some helmet..." which is confusing. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 17-18, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Connone (US 4,406,040). Cannone teaches a hat with a mounting assembly having a base attachedable to a visor with a rotatable portion 5 rotatable about an axis with a light source f connected to the rotatable source 5 via a strap 6. The light f is not attached to an electrical cord and the user may adjust the angle of the light f.

As to claim 18, Cannone teaches illumination device f that is rotatable having a base 5 in the form of a clip that is attached to the corner of the visor of the hat.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 5-7, 10-12, and 16, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Connone (US 4,406,040) in view of Mickey (US 6,616,293). Cannone teaches the device substantially above. Cannone does not teach the light having a mass less than 60 grams (or 40 grams). Mickey teaches a light having a weight of less than one half ounce. It would have been obvious to one of ordinary school in the art to modify the light of Connone with that of Mickey to provide a lightweight headgear.

As to claim 5, the light is capable of being rotated once removed from the strap and then placed back within the strap.

As to claim 7, Cannone teaches the device substantially above. With respect to the limitation of a 6 cm length, the specification contains no disclosure of either the critical nature of the claimed length or any unexpected results arising therefrom, and that as such the 6 cm length was arbitrary and therefore obvious. Such length limitation cannot be a basis for patentability, since where patentability is said to be based upon diameter or another length or another variable in the claim, the applicant must show that the 6 cm length is critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934 (Fed.

Cir. 1990). One having ordinary skill in the art would be able to determine though routine experimentation the ideal dimension for a particular application.

As to claim 10, the headgear of Cannone includes a visor.

As to claim 11, the light is capable of being rotated once removed from the strap and then placed back within the strap.

As to claim 12, Cannone teaches the device substantially above. With respect to the limitation of a 5 cm length, the specification contains no disclosure of either the critical nature of the claimed length or any unexpected results arising therefrom, and that as such the 5 cm length was arbitrary and therefore obvious. Such length limitation cannot be a basis for patentability, since where patentability is said to be based upon diameter or another length or another variable in the claim, the applicant must show that the 5 cm length is critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934 (Fed. Cir. 1990). One having ordinary skill in the art would be able to determine though routine experimentation the ideal dimension for a particular application.

As to claim 16, Cannone teaches the device substantially above. With respect to the limitation of a 5 cm length, the specification contains no disclosure of either the critical nature of the claimed length or any unexpected results arising therefrom, and that as such the 5 cm length was arbitrary and therefore obvious. Such length limitation cannot be a basis for patentability, since where patentability is said to be based upon diameter or another length or another variable in the claim, the applicant must show that the 5 cm length is critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934 (Fed.

Cir. 1990). One having ordinary skill in the art would be able to determine though routine experimentation the ideal dimension for a particular application.

Claims 1, 4, and 8-9, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cecala et al. (US 4,530,112) in view of Mickey (US 6,616,293) in further view of Connone (US 4,406,040). Cecala teaches a helmet having a illumination mounting assembly 15 with a rotatable portion 23 and a base 21 with the user being able to set the position of the lamp 9. Cecala further teaches a light 9. Cecala does not teach the light having a mass less than 60 grams (or 40 grams). Mickey teaches a light having a weight of less than one half ounce. It would have been obvious to one of ordinary school in the art to modify the light of Cecela with that of Mickey to provide a lightweight headgear. Cecala does not teach the light 9 being not connected to a cord. Connone teaches a light attached to a headgear that is not attached to a cord. It would have been obvious to one of ordinary skill in the art to modify the teachings of Cecala with that of Connone to provide for more freedom to the wearer.

As to claim 2-3 and 8-9, the helmet of Cecala is capable of being worn by firemen.

As to claim 4, the helmet of Cecala having two sides and a visor 3 which is hinged to that helmet at the sides with the visor covering a part of some helmet regardless of the visor portion with the light 9 being attached to the portion cover the helmet.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW W. SUTTON whose telephone number is (571)272-6093. The examiner can normally be reached on Monday - Thursday 6:45-5:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AWS
22 October 2009

/GARY L. WELCH/
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